

**WASTE TIRE RECYCLING ACT AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Fred J. Fife**

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Waste Tire Recycling Act related to the relocation of a tire recycling plant.

**Highlighted Provisions:**

This bill:

- ▶ increases the waste tire recycling fee from \$1 to \$1.50 through December 31, 2006;
- ▶ expands the purposes for which the Waste Tire Recycling Fund may be used to include payment of costs incurred for the relocation of a waste tire recycling plant until January 30, 2007;
- ▶ limits to 50 cents the amount of the waste tire recycling fee that can be used to pay for costs incurred in relocating a tire recycling plant;
- ▶ provides qualifications for applicants for reimbursement of relocation costs;
- ▶ provides for the Division of Finance to pay approved relocation costs; and
- ▶ makes certain technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**19-6-805**, as last amended by Chapter 165, Laws of Utah 2001



28 **19-6-807**, as last amended by Chapter 256, Laws of Utah 2002  
29 **19-6-808**, as last amended by Chapter 256, Laws of Utah 2002  
30 **19-6-815**, as last amended by Chapter 256, Laws of Utah 2002  
31 **19-6-819**, as last amended by Chapter 165, Laws of Utah 2001  
32 **19-6-820**, as last amended by Chapter 165, Laws of Utah 2001

33 ENACTS:

34 **19-6-807.5**, Utah Code Annotated 1953  
35 **63-55b-119**, Utah Code Annotated 1953

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37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **19-6-805** is amended to read:

39 **19-6-805. Recycling fee.**

40 (1) (a) A recycling fee is imposed upon each purchase from a tire retailer of a new tire  
41 by a consumer.

42 (b) The consumer shall pay the fee [~~shall be paid by the consumer~~] to the tire retailer at  
43 the time the new tire is purchased.

44 ~~[(b)]~~ (c) The recycling fee does not apply to recapped or resold used tires.

45 (2) (a) The fee for each tire with a rim diameter up to and including 24.5 inches, single  
46 or dual bead capacity is [~~\$1~~] \$1.50.

47 (b) Beginning January 1, 2007, the fee for each tire is \$1.

48 Section 2. Section **19-6-807** is amended to read:

49 **19-6-807. Special revenue fund -- Creation -- Deposits.**

50 (1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling  
51 Fund."

52 (2) The fund shall consist of:

53 (a) the proceeds of the fee imposed under Section 19-6-805;

54 (b) penalties collected under this part; and

55 (c) assets transferred to and loan repayments deposited in the fund [~~pursuant to~~] under  
56 Section 19-6-824.

57 (3) (a) Money in the fund shall be used for:

58 ~~[(a)]~~ (i) partial reimbursement of the costs of transporting, processing, recycling, or

disposing of waste tires as provided in this part;

(ii) payment of costs incurred for the relocation of a tire recycling plant;

~~[(b)]~~ (iii) payment of administrative costs of local health departments as provided in Section 19-6-817;

~~[(c)]~~ (iv) payment of costs incurred by the Division of Finance in accounting for and tracking outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program; and

~~[(d)]~~ (v) payment of costs incurred by the Department of Community and Economic Development in collecting outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.

(b) (i) No more than 50 cents of each \$1.50 fee collected under Section 19-6-805 may be used for payments authorized under Subsection (3)(a)(ii).

(ii) Subsections (3)(a)(ii) and (b) are repealed effective January 30, 2007.

(4) The Legislature may appropriate money from the fund to pay for costs of the Department of Environmental Quality in administering and enforcing this part.

Section 3. Section **19-6-807.5** is enacted to read:

**19-6-807.5. Relocation of a recycling plant -- Payment for costs related to relocation.**

A county of the first class or second class or a city of the first class may apply to the executive secretary for payment from the fund for costs incurred for the relocation of a recycling plant within the county or city subject to the following:

(1) submission of an application on a form prescribed by the executive secretary;

(2) documentation that the plant has been relocated from an area zoned for or adjacent to residential property to an area zoned for business or industrial uses; and

(3) sufficient money in that part of the Waste Tire Recycling Fund identified in Subsection 19-6-807(3)(b)(i) to pay the costs identified in the application, except that if multiple applications are filed, the executive secretary, as approved by the board, shall direct the Division of Finance to prorate the amount of all claims for reimbursement of costs.

Section 4. Section **19-6-808** is amended to read:

**19-6-808. Payment of recycling fee.**

(1) The tire retailer shall pay the recycling fee ~~[shall be paid by the tire retailer]~~ to the

commission:

(a) on or before the last day of the month following the calendar quarter in which the sale occurs for quarterly filers; and

(b) the last day of January following the end of the calendar year for annual filers.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) (a) The commission shall transfer the proceeds of the fee [~~shall be transferred by the commission~~] to the fund for:

(i) payment of partial reimbursement[-]; and

(ii) payment of costs incurred for the relocation of a tire recycling plant.

(b) The commission may retain an amount not to exceed 2-1/2% of the recycling fee collected under this part for the cost to it of rendering its services.

(4) (a) The commission shall administer, collect, and enforce the fee authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, and the provisions of Title 59, Chapter 1, General Taxation Policies.

(b) The tire retailer may retain 2-1/2% of the recycling fee collected under this part for the cost of collecting the fee.

~~[(b)]~~ (c) The exemptions from the general state sales and use tax provided for in Section 59-12-104 do not apply to this part.

(5) The fee imposed by this part is in addition to all other state, county, or municipal fees and taxes imposed on the sale of new tires.

Section 5. Section **19-6-815** is amended to read:

**19-6-815. Payment by Division of Finance.**

(1) The Division of Finance is authorized to pay the recycler partial reimbursements described in Section 19-6-809 and the costs incurred for the relocation of a tire recycling plant described in Section 19-6-807.5 from the fund.

(2) ~~[(The)]~~ (a) As related to Section 19-6-809, the Division of Finance shall pay the dollar amount of partial reimbursement approved by the local health department to the recycler within the next payment period established by rule of the Division of Finance, after receipt of the local health department's report and recommendation.

(b) The Division of Finance shall pay relocation costs described in Section 19-6-807.5

approved by the executive secretary to the applicant within a payment period established by  
division rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
Act.

Section 6. Section **19-6-819** is amended to read:

**19-6-819. Powers and duties of the board.**

(1) The board shall make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as necessary to administer this part. For these purposes the board shall establish by rule:

(a) conditions and procedures for acting to issue or revoke a registration as a waste tire recycler or transporter under Section 19-6-806;

(b) the amount of liability insurance or other financial responsibility the applicant is required to have to qualify for registration under Section 19-6-806, which amount may not be more than \$300,000 for any liability the waste tire transporter or recycler may incur in recycling or transporting waste tires;

(c) the form and amount of financial assurance required for a site or facility used to store waste tires, which amount shall be sufficient to ensure the cleanup or removal of waste tires from that site or facility;

(d) standards and required documentation for tracking and record keeping of waste tires subject to regulation under this part, including:

(i) manifests for handling and transferring waste tires;

(ii) records documenting date, quantities, and size or type of waste tires transported, processed, transferred, or sold;

(iii) records documenting persons between whom transactions under this Subsection (1)(d) occurred and the amounts of waste tires involved in those transactions; and

(iv) requiring that documentation under this Subsection (1)(d) be submitted on a quarterly basis, and that this documentation be made available for public inspection;

(e) ~~[authorize]~~ authority for inspections and audits of waste tire recycling, transportation, or storage facilities and operations subject to this part;

(f) standards for payments authorized under Sections 19-6-807.5, 19-6-809, 19-6-810, 19-6-811, and 19-6-812;

(g) regarding applications to the executive secretary for reimbursements under

[Section] Sections 19-6-807.5 and 19-6-811, the content of the reimbursement application form and the procedure to apply for reimbursement;

(h) requirements for the storage of waste tires, including permits for storage;

(i) the types of energy recovery or other appropriate environmentally compatible uses eligible for reimbursement, which:

(i) shall include pyrolyzation, but not retreading; and

(ii) shall apply to all waste tire recycling and beneficial use reimbursements within the state;

(j) the applications of waste tires that are not eligible for reimbursement;

(k) the applications of waste tires that are considered to be the storage or disposal of waste tires; and

(l) provisions governing the storage or disposal of waste tires, including the process for issuing permits for waste tire storage sites.

(2) The board may:

(a) require retention and submission of the records required under this part;

(b) require audits of the records and record keeping procedures required under this part and rules made under this part, except that audits of records regarding the fee imposed and collected by the commission under Sections 19-6-805 and 19-6-808 are the responsibility of the commission; and

(c) as necessary, make rules requiring additional information as the board determines necessary to effectively administer Section 19-6-812, which rules may not place an undue burden on the operation of landfills.

Section 7. Section **19-6-820** is amended to read:

**19-6-820. Powers and duties of the executive secretary.**

(1) The executive secretary shall:

(a) administer and enforce the rules and orders of the board;

(b) issue and revoke registrations for waste tire recyclers and transporters; and

(c) require forms, analyses, documents, maps, and other records as the executive secretary finds necessary to:

(i) issue recycler and transporter registrations;

(ii) authorize reimbursements under [Section] Sections 19-6-807.5 and 19-6-811;

(iii) inspect a site, facility, or activity regulated under this part; and

(iv) issue permits for and inspect waste tire storage sites.

(2) The executive secretary may:

(a) authorize any division employee to enter any site or facility regulated under this part at reasonable times and upon presentation of credentials, for the purpose of inspection, audit, or sampling:

(i) at the site or facility; or

(ii) of the records, operations, or products;

(b) as authorized by the board, enforce board rules by issuing orders which are subsequently subject to the board's amendment or revocation; and

(c) coordinate with federal, state, and local governments, and other agencies, including entering into memoranda of understanding, to:

(i) ensure effective regulation of waste tires under this part;

(ii) minimize duplication of regulation; and

(iii) encourage responsible recycling of waste tires.

Section 8. Section **63-55b-119** is enacted to read:

**63-55b-119. Repeal dates - Title 19.**

Subsections 19-6-807(3)(a)(ii) and (b) are repealed January 30, 2007.

Section 9. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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### Legislative Review Note

as of 1-27-05 10:56 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

**State Impact**

Provisions of this bill increases fees paid on tire purchases by \$.50 each. It is estimated that it will increase revenue to the Waste Tire Recycling Fund by \$1,000,000 in FY 2006 and \$500,000 in FY 2007. The bill also provides counties of the first and second class and cities of the first class to request payment from the Waste Tire Recycling Fund to relocate recycling plants within the county or city. It is unknown at this time how much of the new revenue will be requested.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Trust Funds	\$0	\$0	\$1,000,000	\$500,000
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,000,000</b>	<b>\$500,000</b>

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**Individual and Business Impact**

Consumers of new tires will pay an additional \$.50 per tire with requirements of this bill.

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**Office of the Legislative Fiscal Analyst**